

HB3864



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3864

Introduced 10/17/2019, by Rep. Jay Hoffman

SYNOPSIS AS INTRODUCED:

20 ILCS 655/5.5

from Ch. 67 1/2, par. 609.1

Amends the Illinois Enterprise Zone Act. Provides that businesses that intend to establish a new wind power facility and are designated as a high impact businesses on or after the effective date of the amendatory Act are required to enter into construction project labor agreements, including provisions establishing wages, benefits, and other compensation for employees performing work under the project labor agreement at that location. Effective immediately.

LRB101 13322 HLH 62164 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Enterprise Zone Act is amended by
5 changing Section 5.5 as follows:

6 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

7 Sec. 5.5. High Impact Business.

8 (a) In order to respond to unique opportunities to assist
9 in the encouragement, development, growth and expansion of the
10 private sector through large scale investment and development
11 projects, the Department is authorized to receive and approve
12 applications for the designation of "High Impact Businesses" in
13 Illinois subject to the following conditions:

14 (1) such applications may be submitted at any time
15 during the year;

16 (2) such business is not located, at the time of
17 designation, in an enterprise zone designated pursuant to
18 this Act;

19 (3) the business intends to do one or more of the
20 following:

21 (A) the business intends to make a minimum
22 investment of \$12,000,000 which will be placed in
23 service in qualified property and intends to create 500

1 full-time equivalent jobs at a designated location in
2 Illinois or intends to make a minimum investment of
3 \$30,000,000 which will be placed in service in
4 qualified property and intends to retain 1,500
5 full-time retained jobs at a designated location in
6 Illinois. The business must certify in writing that the
7 investments would not be placed in service in qualified
8 property and the job creation or job retention would
9 not occur without the tax credits and exemptions set
10 forth in subsection (b) of this Section. The terms
11 "placed in service" and "qualified property" have the
12 same meanings as described in subsection (h) of Section
13 201 of the Illinois Income Tax Act; or

14 (B) the business intends to establish a new
15 electric generating facility at a designated location
16 in Illinois. "New electric generating facility", for
17 purposes of this Section, means a newly-constructed
18 electric generation plant or a newly-constructed
19 generation capacity expansion at an existing electric
20 generation plant, including the transmission lines and
21 associated equipment that transfers electricity from
22 points of supply to points of delivery, and for which
23 such new foundation construction commenced not sooner
24 than July 1, 2001. Such facility shall be designed to
25 provide baseload electric generation and shall operate
26 on a continuous basis throughout the year; and (i)

1 shall have an aggregate rated generating capacity of at
2 least 1,000 megawatts for all new units at one site if
3 it uses natural gas as its primary fuel and foundation
4 construction of the facility is commenced on or before
5 December 31, 2004, or shall have an aggregate rated
6 generating capacity of at least 400 megawatts for all
7 new units at one site if it uses coal or gases derived
8 from coal as its primary fuel and shall support the
9 creation of at least 150 new Illinois coal mining jobs,
10 or (ii) shall be funded through a federal Department of
11 Energy grant before December 31, 2010 and shall support
12 the creation of Illinois coal-mining jobs, or (iii)
13 shall use coal gasification or integrated
14 gasification-combined cycle units that generate
15 electricity or chemicals, or both, and shall support
16 the creation of Illinois coal-mining jobs. The
17 business must certify in writing that the investments
18 necessary to establish a new electric generating
19 facility would not be placed in service and the job
20 creation in the case of a coal-fueled plant would not
21 occur without the tax credits and exemptions set forth
22 in subsection (b-5) of this Section. The term "placed
23 in service" has the same meaning as described in
24 subsection (h) of Section 201 of the Illinois Income
25 Tax Act; or

26 (B-5) the business intends to establish a new

1 gasification facility at a designated location in
2 Illinois. As used in this Section, "new gasification
3 facility" means a newly constructed coal gasification
4 facility that generates chemical feedstocks or
5 transportation fuels derived from coal (which may
6 include, but are not limited to, methane, methanol, and
7 nitrogen fertilizer), that supports the creation or
8 retention of Illinois coal-mining jobs, and that
9 qualifies for financial assistance from the Department
10 before December 31, 2010. A new gasification facility
11 does not include a pilot project located within
12 Jefferson County or within a county adjacent to
13 Jefferson County for synthetic natural gas from coal;
14 or

15 (C) the business intends to establish production
16 operations at a new coal mine, re-establish production
17 operations at a closed coal mine, or expand production
18 at an existing coal mine at a designated location in
19 Illinois not sooner than July 1, 2001; provided that
20 the production operations result in the creation of 150
21 new Illinois coal mining jobs as described in
22 subdivision (a)(3)(B) of this Section, and further
23 provided that the coal extracted from such mine is
24 utilized as the predominant source for a new electric
25 generating facility. The business must certify in
26 writing that the investments necessary to establish a

1 new, expanded, or reopened coal mine would not be
2 placed in service and the job creation would not occur
3 without the tax credits and exemptions set forth in
4 subsection (b-5) of this Section. The term "placed in
5 service" has the same meaning as described in
6 subsection (h) of Section 201 of the Illinois Income
7 Tax Act; or

8 (D) the business intends to construct new
9 transmission facilities or upgrade existing
10 transmission facilities at designated locations in
11 Illinois, for which construction commenced not sooner
12 than July 1, 2001. For the purposes of this Section,
13 "transmission facilities" means transmission lines
14 with a voltage rating of 115 kilovolts or above,
15 including associated equipment, that transfer
16 electricity from points of supply to points of delivery
17 and that transmit a majority of the electricity
18 generated by a new electric generating facility
19 designated as a High Impact Business in accordance with
20 this Section. The business must certify in writing that
21 the investments necessary to construct new
22 transmission facilities or upgrade existing
23 transmission facilities would not be placed in service
24 without the tax credits and exemptions set forth in
25 subsection (b-5) of this Section. The term "placed in
26 service" has the same meaning as described in

1 subsection (h) of Section 201 of the Illinois Income
2 Tax Act; or

3 (E) the business intends to establish a new wind
4 power facility at a designated location in Illinois; in
5 the case of a business that intends to establish a new
6 wind power facility at a designated location in
7 Illinois and is designated as a high impact business on
8 or after the effective date of this amendatory Act of
9 the 101st General Assembly, the business must also
10 agree to enter into a construction project labor
11 agreement, including provisions establishing wages,
12 benefits, and other compensation for employees
13 performing work under the project labor agreement at
14 that location. For purposes of this Section, "new wind
15 power facility" means a newly constructed electric
16 generation facility, or a newly constructed expansion
17 of an existing electric generation facility, placed in
18 service on or after July 1, 2009, that generates
19 electricity using wind energy devices, and such
20 facility shall be deemed to include all associated
21 transmission lines, substations, and other equipment
22 related to the generation of electricity from wind
23 energy devices. For purposes of this Section, "wind
24 energy device" means any device, with a nameplate
25 capacity of at least 0.5 megawatts, that is used in the
26 process of converting kinetic energy from the wind to

1 generate electricity; or

2 (F) the business commits to (i) make a minimum
3 investment of \$500,000,000, which will be placed in
4 service in a qualified property, (ii) create 125
5 full-time equivalent jobs at a designated location in
6 Illinois, (iii) establish a fertilizer plant at a
7 designated location in Illinois that complies with the
8 set-back standards as described in Table 1: Initial
9 Isolation and Protective Action Distances in the 2012
10 Emergency Response Guidebook published by the United
11 States Department of Transportation, (iv) pay a
12 prevailing wage for employees at that location who are
13 engaged in construction activities, and (v) secure an
14 appropriate level of general liability insurance to
15 protect against catastrophic failure of the fertilizer
16 plant or any of its constituent systems; in addition,
17 the business must agree to enter into a construction
18 project labor agreement including provisions
19 establishing wages, benefits, and other compensation
20 for employees performing work under the project labor
21 agreement at that location; for the purposes of this
22 Section, "fertilizer plant" means a newly constructed
23 or upgraded plant utilizing gas used in the production
24 of anhydrous ammonia and downstream nitrogen
25 fertilizer products for resale; for the purposes of
26 this Section, "prevailing wage" means the hourly cash

1 wages plus fringe benefits for training and
2 apprenticeship programs approved by the U.S.
3 Department of Labor, Bureau of Apprenticeship and
4 Training, health and welfare, insurance, vacations and
5 pensions paid generally, in the locality in which the
6 work is being performed, to employees engaged in work
7 of a similar character on public works; this paragraph
8 (F) applies only to businesses that submit an
9 application to the Department within 60 days after the
10 effective date of this amendatory Act of the 98th
11 General Assembly; and

12 (4) no later than 90 days after an application is
13 submitted, the Department shall notify the applicant of the
14 Department's determination of the qualification of the
15 proposed High Impact Business under this Section.

16 (b) Businesses designated as High Impact Businesses
17 pursuant to subdivision (a) (3) (A) of this Section shall qualify
18 for the credits and exemptions described in the following Acts:
19 Section 9-222 and Section 9-222.1A of the Public Utilities Act,
20 subsection (h) of Section 201 of the Illinois Income Tax Act,
21 and Section 1d of the Retailers' Occupation Tax Act; provided
22 that these credits and exemptions described in these Acts shall
23 not be authorized until the minimum investments set forth in
24 subdivision (a) (3) (A) of this Section have been placed in
25 service in qualified properties and, in the case of the
26 exemptions described in the Public Utilities Act and Section 1d

1 of the Retailers' Occupation Tax Act, the minimum full-time
2 equivalent jobs or full-time retained jobs set forth in
3 subdivision (a)(3)(A) of this Section have been created or
4 retained. Businesses designated as High Impact Businesses
5 under this Section shall also qualify for the exemption
6 described in Section 51 of the Retailers' Occupation Tax Act.
7 The credit provided in subsection (h) of Section 201 of the
8 Illinois Income Tax Act shall be applicable to investments in
9 qualified property as set forth in subdivision (a)(3)(A) of
10 this Section.

11 (b-5) Businesses designated as High Impact Businesses
12 pursuant to subdivisions (a)(3)(B), (a)(3)(B-5), (a)(3)(C),
13 and (a)(3)(D) of this Section shall qualify for the credits and
14 exemptions described in the following Acts: Section 51 of the
15 Retailers' Occupation Tax Act, Section 9-222 and Section
16 9-222.1A of the Public Utilities Act, and subsection (h) of
17 Section 201 of the Illinois Income Tax Act; however, the
18 credits and exemptions authorized under Section 9-222 and
19 Section 9-222.1A of the Public Utilities Act, and subsection
20 (h) of Section 201 of the Illinois Income Tax Act shall not be
21 authorized until the new electric generating facility, the new
22 gasification facility, the new transmission facility, or the
23 new, expanded, or reopened coal mine is operational, except
24 that a new electric generating facility whose primary fuel
25 source is natural gas is eligible only for the exemption under
26 Section 51 of the Retailers' Occupation Tax Act.

1 (b-6) Businesses designated as High Impact Businesses
2 pursuant to subdivision (a) (3) (E) of this Section shall qualify
3 for the exemptions described in Section 51 of the Retailers'
4 Occupation Tax Act; any business so designated as a High Impact
5 Business being, for purposes of this Section, a "Wind Energy
6 Business".

7 (b-7) Beginning on January 1, 2021, businesses designated
8 as High Impact Businesses by the Department shall qualify for
9 the High Impact Business construction jobs credit under
10 subsection (h-5) of Section 201 of the Illinois Income Tax Act
11 if the business meets the criteria set forth in subsection (i)
12 of this Section. The total aggregate amount of credits awarded
13 under the Blue Collar Jobs Act (Article 20 of this amendatory
14 Act of the 101st General Assembly) shall not exceed \$20,000,000
15 in any State fiscal year.

16 (c) High Impact Businesses located in federally designated
17 foreign trade zones or sub-zones are also eligible for
18 additional credits, exemptions and deductions as described in
19 the following Acts: Section 9-221 and Section 9-222.1 of the
20 Public Utilities Act; and subsection (g) of Section 201, and
21 Section 203 of the Illinois Income Tax Act.

22 (d) Except for businesses contemplated under subdivision
23 (a) (3) (E) of this Section, existing Illinois businesses which
24 apply for designation as a High Impact Business must provide
25 the Department with the prospective plan for which 1,500
26 full-time retained jobs would be eliminated in the event that

1 the business is not designated.

2 (e) Except for new wind power facilities contemplated under
3 subdivision (a) (3) (E) of this Section, new proposed facilities
4 which apply for designation as High Impact Business must
5 provide the Department with proof of alternative non-Illinois
6 sites which would receive the proposed investment and job
7 creation in the event that the business is not designated as a
8 High Impact Business.

9 (f) Except for businesses contemplated under subdivision
10 (a) (3) (E) of this Section, in the event that a business is
11 designated a High Impact Business and it is later determined
12 after reasonable notice and an opportunity for a hearing as
13 provided under the Illinois Administrative Procedure Act, that
14 the business would have placed in service in qualified property
15 the investments and created or retained the requisite number of
16 jobs without the benefits of the High Impact Business
17 designation, the Department shall be required to immediately
18 revoke the designation and notify the Director of the
19 Department of Revenue who shall begin proceedings to recover
20 all wrongfully exempted State taxes with interest. The business
21 shall also be ineligible for all State funded Department
22 programs for a period of 10 years.

23 (g) The Department shall revoke a High Impact Business
24 designation if the participating business fails to comply with
25 the terms and conditions of the designation. However, the
26 penalties for new wind power facilities or Wind Energy

1 Businesses for failure to comply with any of the terms or
2 conditions of the Illinois Prevailing Wage Act shall be only
3 those penalties identified in the Illinois Prevailing Wage Act,
4 and the Department shall not revoke a High Impact Business
5 designation as a result of the failure to comply with any of
6 the terms or conditions of the Illinois Prevailing Wage Act in
7 relation to a new wind power facility or a Wind Energy
8 Business.

9 (h) Prior to designating a business, the Department shall
10 provide the members of the General Assembly and Commission on
11 Government Forecasting and Accountability with a report
12 setting forth the terms and conditions of the designation and
13 guarantees that have been received by the Department in
14 relation to the proposed business being designated.

15 (i) High Impact Business construction jobs credit.
16 Beginning on January 1, 2021, a High Impact Business may
17 receive a tax credit against the tax imposed under subsections
18 (a) and (b) of Section 201 of the Illinois Income Tax Act in an
19 amount equal to 50% of the amount of the incremental income tax
20 attributable to High Impact Business construction jobs credit
21 employees employed in the course of completing a High Impact
22 Business construction jobs project. However, the High Impact
23 Business construction jobs credit may equal 75% of the amount
24 of the incremental income tax attributable to High Impact
25 Business construction jobs credit employees if the High Impact
26 Business construction jobs credit project is located in an

1 underserved area.

2 The Department shall certify to the Department of Revenue:

3 (1) the identity of taxpayers that are eligible for the High
4 Impact Business construction jobs credit; and (2) the amount of
5 High Impact Business construction jobs credits that are claimed
6 pursuant to subsection (h-5) of Section 201 of the Illinois
7 Income Tax Act in each taxable year. Any business entity that
8 receives a High Impact Business construction jobs credit shall
9 maintain a certified payroll pursuant to subsection (j) of this
10 Section.

11 As used in this subsection (i):

12 "High Impact Business construction jobs credit" means an
13 amount equal to 50% (or 75% if the High Impact Business
14 construction project is located in an underserved area) of the
15 incremental income tax attributable to High Impact Business
16 construction job employees. The total aggregate amount of
17 credits awarded under the Blue Collar Jobs Act (Article 20 of
18 this amendatory Act of the 101st General Assembly) shall not
19 exceed \$20,000,000 in any State fiscal year

20 "High Impact Business construction job employee" means a
21 laborer or worker who is employed by an Illinois contractor or
22 subcontractor in the actual construction work on the site of a
23 High Impact Business construction job project.

24 "High Impact Business construction jobs project" means
25 building a structure or building or making improvements of any
26 kind to real property, undertaken and commissioned by a

1 business that was designated as a High Impact Business by the
2 Department. The term "High Impact Business construction jobs
3 project" does not include the routine operation, routine
4 repair, or routine maintenance of existing structures,
5 buildings, or real property.

6 "Incremental income tax" means the total amount withheld
7 during the taxable year from the compensation of High Impact
8 Business construction job employees.

9 "Underserved area" means a geographic area that meets one
10 or more of the following conditions:

11 (1) the area has a poverty rate of at least 20%
12 according to the latest federal decennial census;

13 (2) 75% or more of the children in the area participate
14 in the federal free lunch program according to reported
15 statistics from the State Board of Education;

16 (3) at least 20% of the households in the area receive
17 assistance under the Supplemental Nutrition Assistance
18 Program (SNAP); or

19 (4) the area has an average unemployment rate, as
20 determined by the Illinois Department of Employment
21 Security, that is more than 120% of the national
22 unemployment average, as determined by the U.S. Department
23 of Labor, for a period of at least 2 consecutive calendar
24 years preceding the date of the application.

25 (j) Each contractor and subcontractor who is engaged in and
26 executing a High Impact Business Construction jobs project, as

1 defined under subsection (i) of this Section, for a business
2 that is entitled to a credit pursuant to subsection (i) of this
3 Section shall:

4 (1) make and keep, for a period of 5 years from the
5 date of the last payment made on or after the effective
6 date of this amendatory Act of the 101st General Assembly
7 on a contract or subcontract for a High Impact Business
8 Construction Jobs Project, records for all laborers and
9 other workers employed by the contractor or subcontractor
10 on the project; the records shall include:

11 (A) the worker's name;

12 (B) the worker's address;

13 (C) the worker's telephone number, if available;

14 (D) the worker's social security number;

15 (E) the worker's classification or
16 classifications;

17 (F) the worker's gross and net wages paid in each
18 pay period;

19 (G) the worker's number of hours worked each day;

20 (H) the worker's starting and ending times of work
21 each day;

22 (I) the worker's hourly wage rate; and

23 (J) the worker's hourly overtime wage rate;

24 (2) no later than the 15th day of each calendar month,
25 provide a certified payroll for the immediately preceding
26 month to the taxpayer in charge of the High Impact Business

1 construction jobs project; within 5 business days after
2 receiving the certified payroll, the taxpayer shall file
3 the certified payroll with the Department of Labor and the
4 Department of Commerce and Economic Opportunity; a
5 certified payroll must be filed for only those calendar
6 months during which construction on a High Impact Business
7 construction jobs project has occurred; the certified
8 payroll shall consist of a complete copy of the records
9 identified in paragraph (1) of this subsection (j), but may
10 exclude the starting and ending times of work each day; the
11 certified payroll shall be accompanied by a statement
12 signed by the contractor or subcontractor or an officer,
13 employee, or agent of the contractor or subcontractor which
14 avers that:

15 (A) he or she has examined the certified payroll
16 records required to be submitted by the Act and such
17 records are true and accurate; and

18 (B) the contractor or subcontractor is aware that
19 filing a certified payroll that he or she knows to be
20 false is a Class A misdemeanor.

21 A general contractor is not prohibited from relying on a
22 certified payroll of a lower-tier subcontractor, provided the
23 general contractor does not knowingly rely upon a
24 subcontractor's false certification.

25 Any contractor or subcontractor subject to this
26 subsection, and any officer, employee, or agent of such

1 contractor or subcontractor whose duty as an officer, employee,
2 or agent it is to file a certified payroll under this
3 subsection, who willfully fails to file such a certified
4 payroll on or before the date such certified payroll is
5 required by this paragraph to be filed and any person who
6 willfully files a false certified payroll that is false as to
7 any material fact is in violation of this Act and guilty of a
8 Class A misdemeanor.

9 The taxpayer in charge of the project shall keep the
10 records submitted in accordance with this subsection on or
11 after the effective date of this amendatory Act of the 101st
12 General Assembly for a period of 5 years from the date of the
13 last payment for work on a contract or subcontract for the High
14 Impact Business construction jobs project.

15 The records submitted in accordance with this subsection
16 shall be considered public records, except an employee's
17 address, telephone number, and social security number, and made
18 available in accordance with the Freedom of Information Act.
19 The Department of Labor shall accept any reasonable submissions
20 by the contractor that meet the requirements of this subsection
21 (j) and shall share the information with the Department in
22 order to comply with the awarding of a High Impact Business
23 construction jobs credit. A contractor, subcontractor, or
24 public body may retain records required under this Section in
25 paper or electronic format.

26 (k) Upon 7 business days' notice, each contractor and

1 subcontractor shall make available for inspection and copying
2 at a location within this State during reasonable hours, the
3 records identified in this subsection (j) to the taxpayer in
4 charge of the High Impact Business construction jobs project,
5 its officers and agents, the Director of the Department of
6 Labor and his deputies and agents, and to federal, State, or
7 local law enforcement agencies and prosecutors.

8 (Source: P.A. 101-9, eff. 6-5-19.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.